THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24872 OF 2005

Dated: 22-11-2005

Between

G. Lakshmi Narayana Reddy, S/o. G. Subba Reddy, Occ: Lorry Owner, R/o. D.No.3-28-6, Muddanur, Cuddapah District.

...PETITIONER

AND

The Commissioner of Prohibition & Excise, Nampally, Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the orders passed by the second respondent in Rc.No.605/2005/B1 dated 17.11.2005 as illegal and arbitrary.

Petitioner is the owner of the lorry bearing No.AP-04-U-4986, purchased on hire basis in the year 2004, which was seized and detained on 27.10.2005 by the Prohibition & Excise Inspector, Enforcement Wing on the allegation that the said vehicle was found carrying illicit liquor in 11 gunny bags and 3 polythene bags each with 500 arrack sachets totaling to 7000 arrack sachets of Karnataka State. The driver and cleaner of the vehicle and two other passengers were present in the vehicle. A case in Cr.No.280 of 2005-06 under Section 7(a) r/w 8(e) of the Andhra Pradesh Prohibition Act, 1995, was registered against the driver, the cleaner and the two passengers wherein the petitioner is shown as A-5.

During the pendency of the confiscation proceedings the petitioner filed an application for interim custody of the said vehicle. On the said application the Deputy Commissioner of Prohibition and Excise by impugned order dated 17.11.2005 took a decision to release the petitioner's vehicle for interim custody on the condition of the petitioner furnishing Bank Guarantee/FDR for the value of the vehicle as assessed by the Motor Vehicle Inspector concerned and on filing an undertaking bond to the effect that the vehicle shall not be sold, alienated or the nature of the vehicle altered and that he shall produce the vehicle before the Prohibition & Excise Authorities as and when required.

Petitioner is not at all aggrieved by other conditions except the condition imposed to furnish Bank Guarantee/FDR to the value of the said vehicle.

The contention of the learned counsel for the petitioner that petitioner has no knowledge about the committal of the offence by the driver and the cleaner along with two other passengers is a matter to be enquired by the second respondent.

Having regard to the fact that if the vehicle is not released its value will be deteriorated when exposed to sun and rain and other circumstances, the second respondent is directed to release vehicle of the petitioner on the condition of the petitioner furnishing Bank Guarantee for half the value of the vehicle as assessed by the Motor Vehicle Inspector concerned and on furnishing third party security for the remaining half of the value of the vehicle and also on filing an undertaking and executing a bond to the effect that he shall not sell or alienate or alter the nature of the vehicle and that he shall produce the vehicle before the Prohibition and Excise Authorities as and when required and the enquiry may be completed as expeditiously as possible within two months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

November 22, 2005

Note: Furnish C.C. of the order by 24.11.2005

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